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Filing date: **11/02/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92060428
Party	Plaintiff Quality Bicycle Products, Inc.
Correspondence Address	KRISTINE BOYLAN BRIGGS AND MORGAN PA 2200 IDS CENTER , 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402 UNITED STATES kboylan@briggs.com, kwollan@briggs.com, IP@Briggs.com, mmoore@qbp.com, bdolan@qbp.com
Submission	Motion for Summary Judgment
Filer's Name	Kristine M. Boylan
Filer's e-mail	kboylan@briggs.com, kwollan@briggs.com, ababcock@briggs.com
Signature	/Kristine M. Boylan/
Date	11/02/2015
Attachments	Motion Brief Summary Judgment.pdf(2005333 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration Nos. 4,496,120 and 4,414,967

For the Marks  and **45NORTH**

Registered on October 8, 2013 and March 11, 2014

QUALITY BICYCLE PRODUCTS, INC.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No. 92060428
	:	
MIDDLEBROOK DESIGN LLC	:	
dba LOVE TRAVERSE CITY,	:	
	:	
Registrant.	:	

**PETITIONER’S MOTION FOR SUMMARY JUDGMENT
ON REGISTRANT’S COUNTERCLAIM**

Quality Bicycle Products, Inc. (“QBP”) hereby moves pursuant to Fed. R. Civ. P. 56 and 37 C.F.R. § 2.127(e) for entry of summary judgment in its favor on the Counterclaim filed by the then-pro se litigant Middlebrook Design LLC d/b/a Love Traverse City “Registrant” or (“Counterclaimant”). In support of its motion for summary judgment, QBP submits the supporting Brief, below, pursuant to 37 C.F.R. § 2.127(a).

**PETITIONER’S BRIEF IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT ON REGISTRANT’S COUNTERCLAIM**

I. INTRODUCTION

Months before this proceeding was filed, the evidence of priority-of-use provided to Counterclaimant (and subsequently produced in discovery) unequivocally established that QBP began use of the 45NORTH trademark well before the filing dates of the applications at issue. Contrary to that evidence, however, Counterclaimant alleges that QBP’s Application Nos. 86/232,342, 86/232,330, and 85/625,684 are “void ab initio,” arguing that the marks were not in

use as of the filing date of the applications. In this proceeding, throughout discovery, and today, there is absolutely no evidence to contradict the evidence provided to Counterclaimant, and there is no issue of material fact with regard to the Counterclaim. Summary judgment should be granted.

II. PROCEDURAL POSTURE

This action was filed on November 25, 2014 after pre-litigation settlement talks between the parties failed. The January 2, 2015 Counterclaim makes only vague and conclusory allegations in three short paragraphs as follows:

Trademark Act Section 1(a), 15 U.S.C. § 1051(a), allows registration of trademarks “used in commerce” and requires that an applicant make a verified statement that the mark is in use in commerce before the filing of the application. Section 45 of the Act, 15 U.S.C. § 1127, defines “use in commerce” of a mark in connection with services “when it is used or displayed in the sale or advertising of services and the services are rendered in commerce, or the services are rendered in more than one State or in the United States and a foreign country and the person rendering the services is engaged in commerce in connection with the services.”

Upon information and belief, Petitioner had not used the “45NRTH” mark in commerce on or in connection with any of the services identified in Application No. 86232342, 86232330, and 85625684 and resulting Registration No. 4268136, as of the May 15, 2012 filing date of the application, and on the October 1, 2011 alleged date of first use, anywhere and date of first use in commerce, as required under Trademark Act Sections 1(a) and 45, 15 U.S.C. §§ 1051(a) and 1127.

Accordingly, Application No. 86232342, 86232330, 85625684, and resulting Registration No. 4268136 are void ab initio, and the registration should be cancelled.

(Dkt #5 at Paragraphs 7-9.) Aside from the summary nature of the pleading, there are several problems that make the Counterclaimant’s pleading nonsensical.

First, Counterclaimant’s pleading makes allegations about “services identified in Application No. 86232342, 86232330, and 85625684 and resulting Registration No. 4268136.” However, there are no services identified in those Applications and Registration, and QBP is not

claiming the use of its trademarks in connection with any services. (Babcock Decl. at Exs. A, B, E, and G.) Instead, QBP uses its trademark in connection with goods. (*Id.* and Exs. D and I.)

Second, the three Applications do not all have the same filing date, and the goods do not all have the same date of first use. Application No. 85/625,684 for “bicycle parts, namely, tires,” has a filing date of May 15, 2012, and a claimed date of first use of October 1, 2011. (Ex. A.) Meanwhile, Application Nos. 86/232,342 and 86/232,330 for clothing, headwear, and footwear, have filing dates of March 26, 2014, and claimed first-use dates of March 26, 2012. (Exs. E and G.)

Third, it was known to Counterclaimant that QBP had used the 45NRTH mark well prior to the filing dates, as Counterclaimant was in possession of the spreadsheets for several months before the January 2, 2015 date of the Counterclaim. There was no basis then, and there is no basis now, under which the Counterclaim can be maintained. Discovery in this proceeding is closed, and summary judgment resolution of the Counterclaim is appropriate before Trial.

III. RELEVANT FACTUAL BACKGROUND

Counterclaimant alleges that QBP’s:

1. Registration No. 4,268,136, which was granted on Application No. 85/625,684;
2. Application No. 86/232,342; and
3. Application No. 86/232,330

are “void ab initio.” These three applications are discussed below.

A. The Evidence Only Shows That The Mark Subject Of Application No. 85/625,684 Was In Use Prior To The Filing Date.

On May 15, 2012, the first application to register the 45NRTH mark was filed, requesting registration in connection with “Bicycle parts, namely, tires” in International Class 12. (Ex. A) The application was based on a first-use date of October 1, 2011, (*id.*) and matured into U.S.

Trademark Registration No. 4,268,136 on January 1, 2013. (Ex. B.) Today, the registration is valid and subsisting. (Ex. C.)

The evidence unequivocally shows that prior to that time,¹ Petitioner sold bicycle tires in connection with the 45NRTH mark, and, in fact, there is no evidence to suggest otherwise.

B. The Evidence Only Shows That The Marks That Were The Subject Of Application Nos. 86/232,342 And 86/232,330 Were In Use Prior To The Filing Dates.

On March 26, 2014, the second application to register the 45NRTH mark was filed, requesting registration for goods in class 25. (Ex. E.) The application was based on a first use date of March 26, 2012, and is pending today. (Ex. F.)

On March 26, 2014, the third application was filed, to register the 45NRTH and Design mark (~~45NRTH~~), also requesting registration for goods in class 25. (Ex. G.) The application was based on a first-use date of March 26, 2012, and is pending today. (Ex. H.)

The evidence unequivocally shows that, prior to the filing of the latter two applications, QBP sold clothing, headwear, and footwear under the 45NRTH mark and the 45NRTH and Design mark (collectively, the “45NRTH marks”) – for more than two years. (Affidavit of David Gabrys (“Gabrys Aff.”) at ¶ 5 & Ex. B.) The sales of socks were first, and then sales of other goods in class 25 followed. For example, the first sale of the 45NRTH Jaztronaut insole was on September 18, 2012. (Gabrys Aff. at ¶ 10 & Ex. B.) The first sale of the 45NRTH Lung cookie balaclava was on October 25, 2012. (Gabrys Aff. at ¶ 8 & Ex. B.) The first sale of the 45NRTH Toaster Fork balaclava/cap was on October 25, 2012. (Gabrys Aff. at ¶ 9 & Ex. B.)

A wide variety of additional related goods in class 25 were added and appear today in QBP’s online sales catalog. (Gabrys Aff. at ¶¶ 11-18 & Ex. C.) For example, the 45NRTH sock was added to the QBP.com online sales catalog on January 19, 2012 (Gabrys Aff. at ¶ 12 & Ex.

¹ See attached Affidavit of David Gabrys (“Gabrys Aff.”) cited herein.

C) and the 45NRTH Wolvhammer cycling shoe was added to the QBP.com online sales catalog on June 6, 2012. (Gabrys Aff. at ¶ 13 & Ex. C.) Those items have remained on the QBP.com online sales catalog since that time. (See Gabrys Aff. at ¶ 19 & Ex. D (screenshots of the QBP.com online sales catalog dated August 6, 2014).)

In all, QBP has extensively used its 45NRTH marks on its products (Gabrys Aff. at Exs. A, E-F, H, J, L, T), on its QBP.com online sales catalog (*Id.* at ¶¶ 11-18 & Exs. C-D thereto), on its website (Gabrys Aff. at Ex. N), and on its product hangtags (Gabrys Aff. at Ex. O-P). Petitioner has advertised its mark on its Facebook page (Gabrys Aff. at Ex. Q), through Internet press releases (Gabrys Aff. at Ex. R), and in magazines (Gabrys at Aff. Ex. S). QBP's 45NRTH marks have come to represent the highest-quality goods and consumers have come to count on QBP's 45NRTH marks to represent superior clothing, footwear, and headwear complementary to its bicycle parts and bicycling gear products. (*Id.*) (Gabrys Aff. at ¶¶ 5-7).

IV. ARGUMENT

The rule applicable to Registrant's Counterclaim is simply stated: when a trademark that is the subject of a use-based application was not in use as of the application filing date, it is under those circumstances that the resulting registration may be found "void ab initio." *American Hygienic Laboratories, Inc. v. Tiffany & Co.*, 12 USPQ 2d 1979, 1984 (TTAB 1989)). This rule was further clarified by the Board in *Grand Canyon West Ranch, LLC v. Hualapai Tribe*, 78 U.S.P.Q.2d 1696, 2006 WL 802407 (TTAB March 17, 2006) where the Board ruled on the circumstances under which an application will be held to be void. None of the *Grand Canyon* circumstances exist here, and, in this case, the evidence shows that the marks that were the subject of the challenged applications 86/232,342, 86/232,330, and 85/625,684 were in use prior to the application filing dates. They are in no way "void ab initio."

A. Summary Judgment Should Be Entered When There Is No Genuine Issue Of Material Fact.

The Board “shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); TBMP § 528.01. “The summary judgment procedure is regarded as ‘a salutary method of disposition’ and the Board does not hesitate to dispose of cases on summary judgment when appropriate.” TBMP § 528.01. Resolving issues on summary judgment is an appropriate pretrial case management tool, that helps to narrow the issues, conserve resources at trial and promote judicial economy. *Id.*

B. There Is No Genuine Issue of Material Fact To Preclude Summary Judgment On Registrant’s Counterclaim Alleging QBP Had Not Used Its Marks By The Filing Dates.

A registration may only be found to be “void ab initio” when the trademark that is the subject of a use-based application was not in use in commerce as of the application filing date. *American Hygienic Laboratories, Inc. v. Tiffany & Co.*, 12 USPQ 2d 1979, 1984 (TTAB 1989)). The evidence shows that is unequivocally not the case here. QBP’s 45NRTH mark was used in connection with bicycle tires on October 1, 2011, months before the filing date of May 15, 2012. QBP’s own General Counsel attested to the use date on the application, and supporting invoice information shows an invoice date of October 6, 2011. (Ex. D.) Consequently, there is no issue of material fact as to whether the 45NRTH mark was *not* used in connection with bicycle tires before the filing date of Application No. 85/625,684.

Likewise, there is no issue of material fact on Counterclaimant’s allegations regarding the pending Application Nos. 86/232,342 and 86/232,330. Application Nos. 86/232,342 and 86/232,330 for goods like clothing, headwear, and footwear in class 25 have a filing date of March 26, 2014. (Exs. E and G.) If these applications had matured into registrations, the

registrations could only be “void ab initio” if the 45NRTH and 45NRTH and Design marks had not been used in connection with any of the goods listed in the applications by March 26, 2014. *See generally, Grand Canyon.* The evidence, however, in Counterclaimant’s possession at the time the Counterclaim was filed shows that QBP’s 45NRTH marks *were used* in connection with clothing, headwear, and/or footwear *two years before* the filing date of March 26, 2014. (Gabrys Aff. at ¶ 5 & Ex. B.) Consequently, there is no issue of material fact to preclude entry of summary judgment.

V. CONCLUSION

Because the record evidence demonstrates that QBP did in fact use the 45NRTH and 45NRTH and Design marks prior to the filing dates of its applications, there is no question of material fact to preclude entry of summary judgment on the Registrant’s Counterclaim. Summary judgment should be entered and the Counterclaim should be dismissed.

Dated: November 2, 2015

Respectfully submitted:

By: /Kristine M. Boylan/
Kristine M. Boylan (#284634)
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CO-COUNSEL:

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General Counsel
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6400 West 105th Street
Bloomington, MN 55438
Telephone: (952) 941-9391

***Attorneys for Petitioner Quality Bicycle
Products, Inc.***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via regular U.S. Mail this 2nd day of November, 2015 upon the following:

Christopher Civil
LegalForce RAPC Worldwide
451 N. Shoreline Blvd.
Mountain View, CA 95043

Dated: November 2, 2015

By: /Kristine M. Boylan/
Kristine M. Boylan (#284634)
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Telephone: (952) 941-9391

*Attorneys for Petitioner Quality Bicycle
Products, Inc.*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration Nos. 4,496,120 and 4,414,967

For the Marks  and **45NORTH**

Registered on October 8, 2013 and March 11, 2014

QUALITY BICYCLE PRODUCTS, INC.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No. 92060428
	:	
MIDDLEBROOK DESIGN LLC	:	
dba LOVE TRAVERSE CITY,	:	
	:	
Registrant.	:	

**DECLARATION OF AUDREY BABCOCK IN SUPPORT OF PETITIONER'S MOTION
FOR SUMMARY JUDGMENT ON REGISTRANT'S COUNTERCLAIM**

I, Audrey Babcock, hereby declare as follows:

1. I am an attorney with Briggs and Morgan, P.A.
2. Exhibit A is a true and correct copy of the United States Trademark Application Serial No. 85/625,684, as obtained from the Trademark Status & Document Retrieval (TSDR) system of the U.S. Patent and Trademark Office on November 2, 2015.
3. Exhibit B is a true and correct copy of the Certificate of Registration for Reg. No. 4,268,136.
4. Exhibit C is a true and correct copy of the November 2, 2015, TESS record of Reg. No. 4,268,136.
5. Exhibit D is a true and correct copy of spreadsheets bates-labeled QBP 0000170 and QBP0000171, and is submitted herewith under seal.
6. Exhibit E is a true and correct copy of United States Trademark App. Ser. No. 86/232,342, as obtained from the Trademark Status & Document Retrieval (TSDR) system of the U.S. Patent and Trademark Office on November 2, 2015.
7. Exhibit F is a true and correct copy of the November 2, 2015, TESS record of App. No. 86/232,342.

8. Exhibit G is a true and correct copy of United States Trademark App. Ser. No. 86/232,330, as obtained from the Trademark Status & Document Retrieval (TSDR) system of the U.S. Patent and Trademark Office on November 2, 2015.
9. Exhibit H is a true and correct copy of the November 2, 2015, TESS record of App. No. 86/232,330.

I HEREBY DECLARE UNDER PENALTY OF PERJURY
UNDER THE LAWS OF THE UNITED STATES
THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: November 2, 2015

/Audrey J. Babcock/
Audrey J. Babcock
Briggs and Morgan, P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Telephone: 612-977-8229

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via regular U.S. Mail this 2nd day of November, 2015 upon the following:

Christopher Civil
LegalForce RAPC Worldwide
451 N. Shoreline Ave.
Mountain View, CA 94043

Dated: November 2, 2015

By: /Kristine M. Boylan/
Kristine M. Boylan (#284634)
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CO-COUNSEL:
Matt Moore (#0168841)
General Counsel
Quality Bicycle Products, Inc.
6400 West 105th Street
Bloomington, MN 55438
Telephone: (952) 941-9391

***Attorneys for Petitioner Quality Bicycle
Products, Inc.***

EXHIBIT A

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85625684

Filing Date: 05/15/2012

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	<u>45NRTH</u>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	45NRTH
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Quality Bicycle Products, Inc.
*STREET	6400 West 105th Street
*CITY	Bloomington
*STATE (Required for U.S. applicants)	Minnesota
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	55438
PHONE	(952) 941-9391
EMAIL ADDRESS	mmoore@qbp.com

WEBSITE ADDRESS	www.qbp.com
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
* STATE/COUNTRY OF INCORPORATION	Minnesota
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	012
*IDENTIFICATION	Bicycle parts, namely, tires
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/01/2011
FIRST USE IN COMMERCE DATE	At least as early as 10/01/2011
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT11\IMAGEOUT 11\856\256\85625684\xml1\ FTK0003.JPG
SPECIMEN DESCRIPTION	Image of bicycle tire with mark
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	Matt S. Moore
STREET	6400 West 105th Street
CITY	Bloomington
STATE	Minnesota
COUNTRY	United States
ZIP/POSTAL CODE	55438
PHONE	(952) 941-9391 ext. 1255
EMAIL ADDRESS	mmoore@qbp.com

AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
*NAME	Matt S. Moore
*STREET	6400 West 105th Street
*CITY	Bloomington
*STATE (Required for U.S. applicants)	Minnesota
*COUNTRY	United States
*ZIP/POSTAL CODE	55438
PHONE	(952) 941-9391 ext. 1255
*EMAIL ADDRESS	mmoore@qbp.com
* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/Matt S. Moore/
* SIGNATORY'S NAME	Matt S. Moore
* SIGNATORY'S POSITION	General Counsel
SIGNATORY'S PHONE NUMBER	(952) 941-9391
* DATE SIGNED	05/15/2012

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85625684

Filing Date: 05/15/2012

To the Commissioner for Trademarks:

MARK: 45NRTH (Standard Characters, see mark)

The literal element of the mark consists of 45NRTH.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Quality Bicycle Products, Inc., a corporation of Minnesota, having an address of
6400 West 105th Street
Bloomington, Minnesota 55438
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 012: Bicycle parts, namely, tires

In International Class 012, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 10/01/2011, and first used in commerce at least as early as 10/01/2011, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Image of bicycle tire with mark.

[Specimen File1](#)

For informational purposes only, applicant's website address is: www.qbp.com

The applicant's current Attorney Information:

Matt S. Moore
6400 West 105th Street
Bloomington, Minnesota 55438
United States

The applicant's current Correspondence Information:

Matt S. Moore

6400 West 105th Street
Bloomington, Minnesota 55438
(952) 941-9391 ext. 1255(phone)
mmoore@qbp.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Matt S. Moore/ Date Signed: 05/15/2012
Signatory's Name: Matt S. Moore
Signatory's Position: General Counsel

RAM Sale Number: 879
RAM Accounting Date: 05/16/2012

Serial Number: 85625684
Internet Transmission Date: Tue May 15 14:28:12 EDT 2012
TEAS Stamp: USPTO/FTK-216.161.18.80-2012051514281278
2330-85625684-49096b8fd8ff31acc22c87d926
ddf62716-CC-879-20120515141124356569

45NRTH



EXHIBIT B

United States of America
United States Patent and Trademark Office

45NRTH

Reg. No. 4,268,136

Registered Jan. 1, 2013

Int. Cl.: 12

TRADEMARK

PRINCIPAL REGISTER

QUALITY BICYCLE PRODUCTS, INC. (MINNESOTA CORPORATION)
6400 WEST 105TH STREET
BLOOMINGTON, MN 55438

FOR: BICYCLE PARTS, NAMELY, TIRES, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 10-1-2011; IN COMMERCE 10-1-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-625,684, FILED 5-15-2012.

CAITLIN WATTS-FITZGERALD, EXAMINING ATTORNEY



David J. Kybas

Director of the United States Patent and Trademark Office

EXHIBIT C



United States Patent and Trademark Office

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45NRTH

Word Mark 45NRTH

Goods and Services IC 012. US 019 021 023 031 035 044. G & S: Bicycle parts, namely, tires. FIRST USE: 20111001. FIRST USE IN COMMERCE: 20111001

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85625684

Filing Date May 15, 2012

Current Basis 1A

Original Filing Basis 1A

Published for Opposition October 16, 2012

Registration Number 4268136

Registration Date January 1, 2013

Owner (REGISTRANT) Quality Bicycle Products, Inc. CORPORATION MINNESOTA 6400 West 105th Street Bloomington MINNESOTA 55438

Attorney of Record Matt S. Moore

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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EXHIBIT D

Submitted Under Seal

EXHIBIT E

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86232342

Filing Date: 03/26/2014

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	<u>45NRTH</u>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	45NRTH
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Quality Bicycle Products, Inc.
*STREET	6400 W 105th St.
*CITY	Bloomington
*STATE (Required for U.S. applicants)	Minnesota
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	55438
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION

* STATE/COUNTRY OF INCORPORATION	Minnesota
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	025
* IDENTIFICATION	Athletic shirts; Boots; Hats; Short-sleeved shirts
* FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 05/15/2012
FIRST USE IN COMMERCE DATE	At least as early as 05/15/2012
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\862\323\86232342\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	A shirt displaying the trademark.
* INTERNATIONAL CLASS	025
* IDENTIFICATION	Balaclavas; Bib shorts; Footwear; Gaiters; Gloves; Insoles; Jackets; Pants
* FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/26/2012
FIRST USE IN COMMERCE DATE	At least as early as 03/26/2012
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\862\323\86232342\xml1\FTK0004.JPG
SPECIMEN DESCRIPTION	Sock displaying trademark
ADDITIONAL STATEMENTS INFORMATION	
* TRANSLATION (if applicable)	
* TRANSLITERATION (if applicable)	
* CLAIMED PRIOR REGISTRATION (if applicable)	
* CONSENT (NAME/LIKENESS) (if applicable)	
* CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	Matt Moore
STREET	6400 W 105th St

CITY	Bloomington
STATE	Minnesota
COUNTRY	United States
ZIP/POSTAL CODE	55438
EMAIL ADDRESS	mmoore@qbp.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
*NAME	Matt Moore
*STREET	6400 W 105th St
*CITY	Bloomington
*STATE (Required for U.S. applicants)	Minnesota
*COUNTRY	United States
*ZIP/POSTAL CODE	55438
*EMAIL ADDRESS	mmoore@qbp.com
* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/Matt Moore/
* SIGNATORY'S NAME	Matt Moore
* SIGNATORY'S POSITION	General Counsel
* DATE SIGNED	03/26/2014
* SIGNATURE	/Matt Moore/
* SIGNATORY'S NAME	Matt Moore
* SIGNATORY'S POSITION	General Counsel
* DATE SIGNED	03/26/2014

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86232342

Filing Date: 03/26/2014

To the Commissioner for Trademarks:

MARK: 45NRTH (Standard Characters, see mark)

The literal element of the mark consists of 45NRTH.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Quality Bicycle Products, Inc., a corporation of Minnesota, having an address of
6400 W 105th St.
Bloomington, Minnesota 55438
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 025: Athletic shirts; Balaclavas; Bib shorts; Boots; Footwear; Gaiters; Gloves; Hats; Insoles; Jackets; Pants; Short-sleeved shirts

In International Class 025, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 03/26/2012, and first used in commerce at least as early as 03/26/2012, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) A shirt displaying the trademark.; Sock displaying trademark.

Specimen File1

Specimen File2

The applicant's current Attorney Information:

Matt Moore
6400 W 105th St
Bloomington, Minnesota 55438
United States

The applicant's current Correspondence Information:

Matt Moore
6400 W 105th St
Bloomington, Minnesota 55438
mmoore@qbp.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Matt Moore/ Date Signed: 03/26/2014
Signatory's Name: Matt Moore
Signatory's Position: General Counsel

Signature: /Matt Moore/ Date Signed: 03/26/2014
Signatory's Name: Matt Moore
Signatory's Position: General Counsel

RAM Sale Number: 86232342
RAM Accounting Date: 03/26/2014

Serial Number: 86232342
Internet Transmission Date: Wed Mar 26 11:26:50 EDT 2014
TEAS Stamp: USPTO/FTK-209.23.142.194-201403261126508
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c5b312a4fdac7b7b4d22a6f75d0ab621fd2fb66-
CC-7956-20140326112312883877

45NRTH





EXHIBIT F



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45NRTH

Word Mark 45NRTH

Goods and Services IC 025. US 022 039. G & S: Athletic shirts; Balaclavas; Bib shorts; Boots; Footwear; Gaiters; Gloves; Hats; Insoles; Jackets; Pants; Short-sleeved shirts. FIRST USE: 20120326. FIRST USE IN COMMERCE: 20120326

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86232342

Filing Date March 26, 2014

Current Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Quality Bicycle Products, Inc. CORPORATION MINNESOTA 6400 W 105th St. Bloomington MINNESOTA 55438

Attorney of Record Matt Moore

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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EXHIBIT G

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86232330

Filing Date: 03/26/2014

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	\\TICRS\EXPORT16\IMAGEOUT16\862\323\86232330\xml1\FTK0002.JPG
*SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	45NRTH
*COLOR MARK	NO
*COLOR(S) CLAIMED (If applicable)	
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of The words '45NRTH' followed by a small triangle.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	864 x 288
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Quality Bicycle Products, Inc.
*STREET	6400 W 105th St.
*CITY	Bloomington
*STATE	Minnesota

(Required for U.S. applicants)	
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	55438
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
* STATE/COUNTRY OF INCORPORATION	Minnesota
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	025
*IDENTIFICATION	Balaclavas; Bib shorts; Footwear; Gloves; Hats; Insoles; Jackets; Knickers; Pants; Shirts; Socks
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/26/2012
FIRST USE IN COMMERCE DATE	At least as early as 03/26/2012
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\862\323\86232330\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	A third displaying the trademark
ADDITIONAL STATEMENTS SECTION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	Matt Moore
STREET	6400 W 105th St
CITY	Bloomington
STATE	Minnesota
COUNTRY	United States

ZIP/POSTAL CODE	55438
EMAIL ADDRESS	mmoore@qbp.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
*NAME	Matt Moore
*STREET	6400 W 105th St
*CITY	Bloomington
*STATE (Required for U.S. applicants)	Minnesota
*COUNTRY	United States
*ZIP/POSTAL CODE	55438
*EMAIL ADDRESS	mmoore@qbp.com
* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/Matt Moore/
* SIGNATORY'S NAME	Matt Moore
* SIGNATORY'S POSITION	General Counsel
* DATE SIGNED	03/26/2014

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86232330

Filing Date: 03/26/2014

To the Commissioner for Trademarks:

MARK: 45NRTH (stylized and/or with design, see mark)

The literal element of the mark consists of 45NRTH.

The applicant is not claiming color as a feature of the mark. The mark consists of The words '45NRTH' followed by a small triangle.

The applicant, Quality Bicycle Products, Inc., a corporation of Minnesota, having an address of
6400 W 105th St.
Bloomington, Minnesota 55438
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 025: Balaclavas; Bib shorts; Footwear; Gloves; Hats; Insoles; Jackets; Knickers; Pants; Shirts; Socks

In International Class 025, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 03/26/2012, and first used in commerce at least as early as 03/26/2012, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) A third displaying the trademark.

Specimen File1

The applicant's current Attorney Information:

Matt Moore
6400 W 105th St
Bloomington, Minnesota 55438
United States

The applicant's current Correspondence Information:

Matt Moore
6400 W 105th St
Bloomington, Minnesota 55438
mmoore@qbp.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Matt Moore/ Date Signed: 03/26/2014

Signatory's Name: Matt Moore

Signatory's Position: General Counsel

RAM Sale Number: 86232330

RAM Accounting Date: 03/26/2014

Serial Number: 86232330

Internet Transmission Date: Wed Mar 26 11:22:26 EDT 2014

TEAS Stamp: USPTO/FTK-209.23.142.194-201403261122268

56499-86232330-5004ab47937ee2508b76547e6

36d87c37a2df865b18673cd8aa7d72e1fedba88-

CC-7898-20140326095434180520

45N RTH 



EXHIBIT H



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Word Mark 45NRTH

Goods and Services IC 025. US 022 039. G & S: Balaclavas; Bib shorts; Footwear; Gloves; Hats; Insoles; Jackets; Knickers; Pants; Shirts; Socks. FIRST USE: 20120326. FIRST USE IN COMMERCE: 20120326

Mark

Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design

Search Code 26.05.21 - Triangles that are completely or partially shaded

Serial

Number 86232330

Filing Date March 26, 2014

Current Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Quality Bicycle Products, Inc. CORPORATION MINNESOTA 6400 W 105th St. Bloomington MINNESOTA 55438

Attorney of Record Matt Moore

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the words "45NRTH" followed by a small triangle.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead

Indicator LIVE

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